



**Interim Report of the Hungarian Government  
in response to the report of the  
European Committee for the Prevention of  
Torture and Inhuman or Degrading Treatment  
or Punishment (CPT) on its visit to Hungary  
from 1 to 14 November 1994**

The Hungarian authorities have requested the publication of their interim report. The CPT's report on its visit to Hungary and comments of the Hungarian authorities have already been made public (see CPT/Inf (96) 5).

Strasbourg, 18 April 1996

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**INTERIM REPORT OF THE HUNGARIAN MINISTRY OF JUSTICE  
IN RESPONSE TO THE REPORT OF THE EUROPEAN COMMITTEE  
FOR THE PREVENTION OF TORTURE AND INHUMAN  
OR DEGRADING TREATMENT OR PUNISHMENT (CPT)  
ON ITS VISIT TO HUNGARY**

**FROM 1 TO 14 NOVEMBER 1994**

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1. Torture and other forms of ill-treatment

1.1 The National Prison Administration has no information as regards which of the disciplinary actions against members of the staff had been initiated on the basis of a complaint made by the allegedly injured detainee and which had been based on the denunciation of a witness. As a result, we can provide only the aggregated figures of the disciplinary offences involved.

**Disciplinary offences concerning ill-treatment:**

**In 1993**

Type of disciplinary offence	Number of cases/offenders
1. Legally unjustified detention of less than 24 hours	3/6
2. Forms of violence (milder than battery)	2/2
3. Misdemeanours related to the detainee's self- injury or bodily harm done to other inmates	2/3
4. Verbal abuse degrading human dignity	2/3
5. Failure to offer proper accommodation for a detainee	1/2

6. Failure to properly handle an application submitted by a detainee	1/1
7. Negligence in mail delivery	3/3
8. Offences regarding the catering of detainees (non-observance of nutrition norms, acquisition of the detainee's food)	5/6

**In 1994**

Type of disciplinary offence	Number of cases/offenders
1. Delayed release (in 3 cases illegal detention of over 24 hours)	4/7
2. Negligence related to suicidal cases	3/7
3. Inhuman or degrading treatment or procedure	1/2
4. Violation of the personality rights of the detainee	1/1
5. Application of force (coercive measures) or failure to report such an event	2/3
6. Violation of obligations regarding catering	4/4
7. Complaint regarding mail delivery	1/2

1.2 In 1993 the penitentiary institutions reported criminal actions initiated against four persons on account of ill-treatment during official procedure under section 226 of the Criminal Code. The decisions in these cases were as follows:

- 1) The Eger Section of the Budapest Prosecution Investigation Office terminated the investigation (Case I/3, 15074/1993, 30 June 1993) against a 1st Lieutenant and a Corporal of the penal institution in Eger, under section 139 (1.b.) of the Act on Criminal Procedure, inasmuch as the findings of the investigation had not substantiated the perpetration of the criminal offence (lack of evidence).
- 2) The Miskolc Section of the Debrecen Prosecution Investigation Office terminated the investigation (Case II/2, 15154/1993, 21 October 1993) against a Sergeant-Major of the penal institution in Miskolc, under section 139 (1.b.) of the Act on Criminal Procedure.
- 3) The Pest County Section of the Budapest Prosecution Investigation Office terminated the investigation (Case I/7, 15020/1993, 13 April 1993) against a 1st Lieutenant of the Tököl Prison and Remand Centre for Adolescents, under section 139 (1.b) of the Act on Criminal Procedure.
- 4) The Budapest Prosecution Office of the X-XVII District terminated the investigation in lack of evidence (B.X.



1510/1993, 27 October 1993) against a Corporal of the Budapest Remand Prison, under section 139 (1.b) of the Act on Criminal Procedure.

Criminal procedures started in 1994:

Proceedings were initiated against eight persons on suspicion of misuse of authority under section 225 of the Criminal Code. Of these two were based on prisoner's complaints. In both cases criminal procedure was terminated by the prosecutor's investigation office in charge under section 139 (1.b.) of the Act on Criminal Procedure, due to the fact that the findings had not substantiated the allegations.

Proceedings were initiated against three persons on suspicion of ill-treatment during official procedure under section 226 of the Criminal Code. In one of the cases the investigation was terminated under section 139 (1.b.) of the Act on Criminal Procedure. Against two persons indictments were laid, their cases are pending before court.

In the near future disciplinary cases involving professional prison staff will have been stored in computer databases thus we will be able to give precise answers to any questions of that kind.

## 2. Conditions of detention

2.1 So far we have not been able to introduce comprehensive measures to reduce overcrowding in the Budapest Remand Prison. The renovation of wing III. at the Nagy Ignác u. building opened an additional 80 person capacity. In practical terms this capacity is just enough to bring down overcrowding in 7-8 m<sup>2</sup> cells from four detainees to two and to reduce occupancy rates of the most overcrowded rooms by two-three persons.

The Government of the Republic of Hungary passed a resolution according to which a new, 600 person capacity penal institution is to be built in the capital city or in its proximity to accommodate persons under preliminary arrest (pre-trial detention). In all likelihood the new institution is to become operational in 1999.

2.2 The official occupancy rate at the Budapest Remand Prison was determined in accordance with the Ministerial Decree in force. This provides 4 m<sup>2</sup> free moving space per capita in multiple cells and 6 m<sup>2</sup> in singular cells. Observance of this regulation would significantly improve conditions for accommodation and would offer appropriate living space for persons accommodated in the institution. Compliance with the norms would allow only one person to be placed in a cell of 7 m<sup>2</sup>.

In Hungary a significant portion of penal institutions is overcrowded, moving space for detainees is insufficient, premises suitable for out-of-cell stay and community activities are scarce. The arrangement and design of premises within a number of institutions lack functionality. Therefore the Government ordered the Minister of Justice to have a long-term development plan for penal institutions drawn up by April 1996. Hopefully problems of this kind will cease to exist with the accomplishment of this plan.

- 2.3 As yet, it has not been possible to close down or enlarge the reception cubicles at the Budapest Remand Prison. Approximately 5000-6000 persons are received at the establishment annually. Detainees have to be placed somewhere for the time of the reception process to protect their personal belongings and to protect them from bodily harm and infections.

The size of these cubicles is 1.2 m<sup>2</sup>, ventilation and lighting is ensured. In case they need anything, detainees can get in touch with the staff immediately. The duration of custody in these cells is approximately 30 to 90 minutes.

The enlargement of "reception cells" will be made possible after the completion of the planned new remand prison in Budapest.

2.4 The possibility to spend one hour in the open air is granted for every detainee. However, effective regulation does not make it compulsory, and a lot of detainees do not make the best of this opportunity. There are cases when some detainees do not take part in open-air exercise for days, still there is no way to compel them to do so. Probably a more favourable situation would result if various sports programmes could be organised, the present arrangement of the institution, however, do not make it possible.

2.5 In both units of the Budapest Remand Prison there is a community room, a library, a room for body-building plus the walking yards available to be used for out-of-cell activities. In addition, if daily routine allows it, there is also a possibility to play table tennis in the corridors. The lack of suitable premises excludes the possibility to schedule educational projects or vocational training.

It is correct that, conditions for employment do not exist. A reason for this is that remand prisoners cannot be compelled to work, fluctuation level is very high, short or uncertain period of time they spend at the establishment obstructs programmed and uninterrupted employment.

The situation is much more favourable in institutions holding sentenced prisoners. The exceptional case for

persons incarcerated at those prisons is not to spend more than eight hours outside their cell.

The objective of improving the conditions for offering meaningful activities for persons on remand is a priority in the development programme of the penitentiary institutions, and is to be solved in the long run.

- 2.6 There is primary school training at the Tököl Prison and Remand Centre for Adolescents, on an average attended by 150 juveniles every school year. Last year a shop assistant course was organised with 23 participants, currently 20 juveniles take part in a leather goods maker course.

Last year the institution won a Phare vocational training project of 7.5 million Forints which provides continuous training of two trades (car mechanic; wood cutting and shaping) for three years. There are sports circles (football, table tennis, chess, body building) running for more talented juveniles, and currently two additional circles (cycling and boxing) are being organised.

In addition to the above, the following specialised circles are functional to offer free-time activity: literature, drawing, music, housekeeping, handicraft, fancy leather goods making.

As a guided discussion and activity programme a so-called "VEKA" project (from the initials of the Hungarian

equivalents of "behaviour", "lifestyle", "drugs" and "AIDS") is organised regularly with the participation of all detainees.

Apart from the sports programmes an additional one hour stay in the open air is granted for all the prisoners every day on a voluntary basis.

2.7 Between 08:00 and 18:00 hours detainees can participate in sports programmes offered on their daily schedule. This, in fact, means an hour stay in the gym or in open-air two or three times per week. There are also possibilities to play table tennis in each accommodation units, and there are rooms for body-building in several accommodation units.

2.8 The number of participants in secondary and vocational training is less than it would be desirable. The Phare programme mentioned above will hopefully amend this situation. In addition, the director general of the National Prison Administration made arrangements to give higher priority to juvenile programmes and to assure increased financial support for this purpose from central resources.

2.9 Current employment programmes for juveniles are of inappropriate vocational level, the framework of employment requires restructuring. The director general of the National Prison Administration instructed the

authorities concerned to reassess the present situation and to introduce effective measures to bring about a vocational-oriented employment system for juvenile offenders that would enhance both their personality assets and their chances of employment on release.

- 2.10 Lodging an appeal does not have detrimental implications for detained juveniles; the only consequence it has is that they may not be qualified as convicts and therefore the rules for remand prisoners are to be applied.

Effective regulation provides that the doors of the cells holding detainees without a final conviction (sentence) have to be kept locked, thus they do not possess the same level of freedom of movement as offenders with a final sentence.

Nevertheless, they are allowed to leave their cells daily to attend organised programmes (sport events, school training, cultural activities).

As to assure employment, at present it is an unsolved problem, and this leaves significantly more time for them to spend in their cells than in the case of prisoners with a final sentence. We intend to initiate legal changes to improve the situation.

### 3. Medical issues

- 3.1 According to present practice the detainee is provided a copy of the major medical documents (e.g. injury records, medical statements, reports of laboratory findings, final hospital bulletins), the detainee is normally given these copies upon release. During his detention, he can get hold of these documents only at his request and when it serves his interests (e.g. in the case of civil court proceedings, expert investigation, disability statement, etc.), normally in cases when he himself administers his affairs instead of the Prison Administration. In all other cases it would be impractical to give the documents to the detainees, inasmuch as they tend to get lost, or might get into unauthorised persons' hands.
- 3.2 Newly received detainees get a written statement of the house rules, which gives details about medical consulting hours, access to medical facilities, and all other information regarding health care. House rules contain all regulation about personal and community hygiene, the use of showers, washrooms, change of bedlinen and clothing, supply of cleaning materials and personal hygiene products, requirement concerning the tidiness of the establishment.

Hygiene-related norms and requirements are defined in the Prison Rules, local house rules are drawn up in compliance with these regulations.



- 3.3 The CPT Report contained recommendations to introduce more reasonable procedures of access to a doctor for detainees. The Prison Administration found these observations substantiated, for this reason so-called medical inquiry rounds have been introduced at the Budapest Remand Prison on a fortnightly basis. These rounds give a preliminary means of filtering out detainees that presumably need medical consultation, examination or treatment, from among those who do not necessarily make justifiable complaints. This way, in more serious cases there is a possibility to offer full-scale treatment, whereas less urgent cases can be phased and timed according to urgency and the nature of examination. Prescription medicines are delivered by nurses two or three times a day in the accommodation blocks. It offers another way of gaining information about medical complaints or requests to consult a doctor.
- 3.4 This system also offers a possibility for inmates to approach the health care service on a confidential basis, inasmuch as apart from medical assistants no one can be present at the actual medical examination (prison officers or security guards are not allowed). The only exception is when it is in the interests of the detainee to bring in physical help (for instance the medical staff is made up of females and they need help to sedate a detainee who is in an epileptic fit and give him therapeutic treatment).

3.5 As far as HIV tests are concerned, it is not the decision of the Prison Administration to carry out HIV screening. Screening is carried out from resources other than those of the Prison Administration. The Prison Administration acts in compliance with the decree of the Ministry of Health in force. Obviously, if there is a change in the concept of the Ministry of Health the Prison Administration will comply.

The sample obtained during the screening with the consent of the detainee is assigned a code number and taken to the laboratory with no indication of personal particulars. It is not the prison that the laboratory will notify of the findings of the test but the central penal health authority which, if necessary, is to take the appropriate measures in confidence.

It should be stressed that screening is accomplished with the consent of the detainee, anyone who objects will not be tested. From among the tens of thousands of examinations there have been only a few cases when detainees found the test unnecessary.

During all applied procedures special care is taken to avoid any discrimination against detainees on grounds of HIV infection or HIV screening. This explains the practice of differentiated accommodation of HIV infected persons in the Tököl Prison and Remand Centre for Adolescents and not in the Central Prison Hospital, as

the CPT Committee was incorrectly informed. This form of accommodation is not based on health considerations, thus it cannot be regarded as segregation in the epidemiological sense.

The Prison Administration puts a great emphasis on the treatment of HIV positive detainees, consequently we joined the appropriate programme of the state health-care service and we act in co-operation with the related health institutions. In the framework of the Hungarian health system the medical care of HIV infected persons and the hospital treatment of AIDS patients is accomplished in Budapest-based institutions that have nationwide authority. The accommodation of HIV infected detainees in the penal institution close to the capital city was made necessary by considerations of availability and unimpaired co-operation.

Judging on the experience accumulated for almost a decade the present practice appears to be the best solution both for the community and for the HIV infected detainees.

The present practice cannot be continued if (due to the spreading of the infection in the penal institutions) there are more than one or two new cases annually.

3.6 A system to prevent the spread of transmissible diseases has been successfully functioning for a longer period of time, its efficiency is demonstrated in the low

percentages of acute contagious diseases as compared to ratios in the general population of the country. On detecting an infectious disease, the prescribed measures are taken as regards the patients and their environment. Segregation can be accomplished in the Central Hospital of the Prison Administration.

The health care service of the Prison Administration is prepared to apply the necessary protective measures in cases of infections. An integral part of this activity is providing relevant information to both prison staff and inmates.

Among health education projects the information campaigns launched in times of an epidemic (e.g. influenza) or about the dangers posed by an infection that could be brought into the country (e.g. cholera) are of particular interest.

The Prison Administration, in cooperation with the National Institute for Health Protection, provides penal institutions with posters and information leaflets about means of prevention against transmissible diseases. Information material about AIDS and HIV infection are regularly handed out at prisons. Apart from the above, all the information programmes distributed through the mass media are available for the detainees, as well.

Obviously, there are new tasks emerging from time to time. Currently information is being gathered about the spread of hepatitis among the prison population. Information on enhancing prevention is being processed and fed back to the detainees.

- 3.7 Annually there are about five to six thousand persons booked in at the Budapest Remand Prison for some period of time. As compared to this figure the number of suicides and attempted suicides is well below the national average. (In 1990 one person, in 1993 2 persons, in 1995 one person committed suicide.)

To prevent suicidal attempts is a high priority for the whole prison staff. Even at the slightest signs of suicidal intent immediate steps are taken for prevention.

In spite of the low number of suicidal cases the Prison Administration, with the help of outside experts, is currently drawing up a suicide prevention strategy which is applicable in institutions throughout the country.

- 3.8 Experts are reconsidering the application of special cells to accommodate inmates who pose danger to themselves or to others as a result of their temporary frame of mind and they are trying to work out methods offering better solutions to this problem.

- 3.9 The Prison Administration offers full-scale dental treatment service for incarcerated offenders. At remand prisons (such as the Budapest Remand Prison) there is no way to accomplish tooth replacement due to the short stay of most detainees, the uncertainty of the exact time of their release, the frequent transfers, the high fluctuation levels and the resulting financial and administrative complications. Nevertheless, dental treatment in acute cases and dental maintenance is available. Tooth replacement can be accomplished in the establishment where the prisoner is finally assigned to after receiving his sentence. With the exception of tooth replacement all forms of dental treatment provided by the Prison Administration are free of charge for the detainees, whereas the general population has to pay for the same services at present.
- 3.10 Measures have been taken to increase staffing levels and to reinforce the team of psychologists, primarily by increasing their income and improving their working conditions.
- 3.11 Detainees are interviewed by the nurse on duty immediately after reception and on return to a penal institution (irrespective of the length of stay in police custody) about their general state of health, their complaints are taken note of, the eventuality of an infection is examined.

It is standard procedure to carry out a full-scale medical examination within 48 hours after reception. As to the return of detainees from police custody, we are of the opinion that a repeated full-scale medical examination is justified only if the detainee makes a complaint. In case the nurse observes signs of illness or injury, or the detainee lodges a complaint, medical assistance is immediately available.

3.12 As far as we know Hungarian authorities do not currently plan to modify effective regulation as regards obligatory HIV testing.

3.13 We think that the professional independence of the health-care staff of the Prison Administration is guaranteed in almost every respect.

The health-care system within the Prison Administration is independently managed and is integrated into the national health-care network. Due to the cooperation with non-penal health-care institutions (hospitals and clinics all across the country) therapeutic and preventive treatment is ensured for detainees at every stage of medical treatment. The health-care management at the Prison Administration endeavours to offer treatment for all patients confined to bed within the prison system's hospitals (the Central Prison Hospital has a capacity of 298 beds, the Judicial Institute of Observation and Mental Care has 311 beds, the Aftercare Unit for Chronic

Cases at Nagyfa has 70 beds). Nevertheless, acute or special cases are also taken care of, such patients are sent to appropriate institutions for due treatment. In trivial cases patients are placed at the infirmary of the penal institution. Doctors employed at penal institutions are highly qualified experts, who primarily focus on the interests of their patients and prison management never questions their competence in medical issues. Medical institutions of the penal system are run by medical professionals: an evident safeguard to represent medical interests. All added up, conflicts or ethical dilemmas almost never take place.

3.14 The regular assessment of the quality and effectiveness of health-care has been the task of an organ with the responsibilities of a national authority since 1991: the State Service for Public Health and Medical Officers (Állami Népegészségügyi és Tisztiorvosi Szolgálat, ÁNTSZ). The competence, legal authority and tasks of ÁNTSZ are defined by law, and this authority comprises the penal system as well. In pursuance with its legally granted competence the experts (head physicians) of ÁNTSZ carry out regular and comprehensive inspection and professional supervision in prisons and penal medical establishments. Their findings normally reflect positive assessment, however, the management of the Prison Administration takes immediate steps, should they signal shortcomings.



#### 4. Other issues related to the CPT's mandate

- 4.1 The several phases of staff-increase programme completed till 1990 on the one hand, and the significant portion of replaced staff on the other, resulted in notable gaps in professional training. This unfavourable situation was further aggravated by the fact that the Training School for Non-Commissioned Officers (Tiszthelyettesképző Iskola), which has the duty of completing the normally required professional training for the prison staff but does not have the capacity of fulfilling that task even in respect of the regular prison staff, was assigned additional external obligations, such as retraining soldiers recruited from the base staff and training courses for reserve soldiers.

As a compound effect of these factors about one fourth of the NCO staff started their service without the appropriate professional training, receiving only a 14-day basic training.

In 1993-94 a two-phase training adjustment programme was drawn up to overcome these serious shortcomings.

The prime objective of the first phase is to make up for the gaps in training for the improperly prepared practitioners. The other aim is to offer higher level theoretical and practical training for the newly appointed regular staff.

To facilitate success, the training of staff is accomplished on a regional basis, drawing in ten institutions in addition to school training. Standard school training has been increased from five months to eight months. As a result of these measures training-related deficiencies will be greatly reduced. By the summer of 1996 the number of undertrained staff will have been brought down to about 200 persons, a number which is already manageable within the school training scheme.

- 4.2 In 1996 a new visiting room will be opened in the Nagy Ignác u. unit of the Budapest Remand Prison, thus visits can be made more frequent and conditions more uplifting. As far as the other unit is concerned improvement can be achieved at a somewhat later stage only. The governor of the establishment made arrangements, primarily through better organisation, to increase visit entitlement which concerns females and juveniles first of all.
- 4.3 As soon as technical and other preconditions are created, detainees on remand and sentenced prisoners will be provided access to telephones.
- 4.4 A new decree on the Execution of Punishments and Measures (Prison Rules) is to be issued in the first half of 1996 which is to set norms regarding the furnishing and equipment of cells used for disciplinary solitary confinement.

4.5 Artificial lighting in cells used for disciplinary solitary confinement in the penal institution for Adolescents was improved by replacing the electric equipment. Natural light can be increased only by replacing the windows. Such a measure, however, can be completed only as part of the reconstruction scheme of the building which is planned to be accomplished later.

The cells are currently being fitted with a call system.

4.6 The Hungarian penal system does not consider dangerous detainees as a special treatment category, therefore their rights and obligations are identical with those of the rest of the inmates. The difference is that their accommodation and their transfer from the establishment is to be completed applying special rules.

Consequently, the sphere of rights applicable to them is the same, what differs is the way they are applied.

An important consideration in designing their regime and programmes is not to break all links to the outside world, to maintain everyday human communication and to grant one visit and one parcel per month.

Dangerous detainees are entitled to watch TV, to use the library and sports facilities.

Finding a solution to the problem of regular employment in their case is hindered by the lack of available and secure workplaces.

Effective security requirements, however, involve disadvantageous implications for them, that is why it is compulsory to review every six months whether the classification of dangerousness is justified or not.

The prosecution agency regularly inspects the legality of the detention of dangerous inmates.

4.7 The Prison Administration is making efforts to remedy the nutritional problems of detainees. For this reason they allocated increased sums for catering in 1996, took measures to improve the professional level of the kitchen staff, called on the management of the institution and the central supervisors to introduce more effective inspection.

4.8 Kitchen facilities at Unit I of the Budapest Remand Prison were upgraded in 1995, from 1996 onwards these facilities will provide for the catering of Unit II, as well.

A partial upgrade of kitchen facilities at the Tököl Prison and Remand Centre for Adolescents was concluded in 1995, which involved primarily the enhancement of hygienic conditions.

The complete reconstruction of the kitchen is expected to be completed in 1997.

- 4.9 The new Prison Rules will provide new regulation as regards disciplinary solitary confinement:

During solitary confinement the detainee

- a) will go straight to his workplace from the cell in the morning and return there after work, in case he is allowed to work;
  - b) may participate, with permission, in school training projects;
  - c) may correspond with his relatives or with other approved addressees;
  - d) may keep his own books, family photos, letters, and also course books and writing equipment if he attends a school project;
  - e) may not go to bed during daytime.
- 4.10 Measures have been taken to make the name and address of the CPT President widely known. Letters addressed to authorities and international organisations are not allowed to be screened, by law these letters are considered to be of confidential nature.

As far as correspondence is concerned, the term of international organisations covers all those organisations that supervise the observance of human rights or are involved in charity. Authorities are: the ombudsman's office, the court, prosecution and organs of public administration.

- 4.11 According to current practice the detainee may request a hearing from the governor of the institution in writing without indicating the purpose of the interview. The governor has to receive the detainee within one week and part of the interview can be arranged in confidential conditions.

In addition, governors/directors of penal institutions introduced measures to grant detainees confidential access to them in writing.

- 4.12 Hungarian authorities make great efforts to execute the punishment of deprivation of liberty under the widest possible social control and public supervision.

For this reason, apart from the supervision of public prosecutors and judges, governmental, self-governmental (municipal) authorities and non-governmental organisations are also encouraged to pay visits to prisons.

- 4.13 The education enhancement programme is aimed at a wide-scale transformation and development of the present

system of penal professional training, in fact, with the exception of higher level professional training (officer training) it involves the whole system of education. The success of this concept, which was drawn up in 1994, necessitates the implementation of a number of tasks, some of which are in progress and some are just becoming timely. The most important of these tasks are as follows:

- a) Setting up an educational centre to carry out primary and secondary level training and also further training schemes required in the penal field, thereby terminating current bottlenecks and decentralisation.

The Prison Administration has already singled out and bought the real estate for this purpose. The functional restructuring and refurbishment of the newly-acquired building have already started, apparently the new building offers much wider possibilities to fulfil the functions of an education centre than the present one.

- b) A key element of the new training system is the appropriate interfacing of training levels and harmonising theory-oriented and practice-oriented phases in training.

The present forms of professional training are accepted only within the penal system. In order to grant them public recognition as officially registered forms of professional qualification, the training period will have

to be increased to one or two years depending on training orientations.

Apart from a more meticulous training of professional skills, the new training periods open up new horizons for a more comprehensive physical and mental preparation and also for the extension of the training structure (e.g. the inclusion of language training and information technology).

- c) The reform of the education system necessitates the updating of the qualification requirement levels, the recharting of these requirements has begun.

4.14 Currently there is only one penal institution holding sentenced juvenile offenders in Hungary. For a number of inmates this situation makes visits rather difficult. In justifiable cases the establishment can organise so-called family-therapeutic visits financed by the prison authorities to help maintain family links or settle family problems.

At present a new penal facility for young offenders is being constructed in Kecskemét. It is to be opened this year and will accommodate 30 juveniles, primarily from the neighbouring counties.

Longer term development plans envisage to build an additional penal establishment for juveniles in the north-east of Hungary.



- 4.15 In the case of persons undergoing disciplinary solitary confinement a medical check-up is to be completed daily and the disciplinary unit is regularly visited by a psychologist and a correctional officer. If need be, the execution of disciplinary punishment can be suspended or cancelled on the basis of the doctor's assessment.
- 4.16 After the change of the political system, as part of the institutional structure of the new democratic constitutional state, the Parliamentary Ombudsman Office was set up in June, 1995. Within the office an ombudsman for civil rights, an ombudsman for data protection and an ombudsman for national and ethnic minority rights was appointed. Taking into account the short period of its existence, it is early days to try to give a detailed and informative activity list of the office.

Applications addressed to the Parliamentary Ombudsman Office cannot be supervised by the management of the penal establishments.

Up to January 1996 two complaints have been sent to the Ombudsman Office by detainees (one has to do with the breach of privacy of correspondence, the other is related to maladministration of passport issuing).

According to information received from the Parliamentary Ombudsman Office, the experts of the office visit the establishment concerned in each case in order to complete

a thorough investigation of the complaints and they draw their conclusions based on on-site experience.



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ON ITS VISIT TO HUNGARY**

**FROM 1 TO 14 NOVEMBER 1994**

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## I.

**Information**

The Ministry of the Interior, in pursuance of section 3 of Resolution 2351 of 1995 (22 November) of the Government and paragraph 160 (1) of the Report of the Committee (hereinafter referred to as "the CPT Report") wishes to inform the Committee of the following:

10. As to human rights education within the framework of police officer training, bearing in mind paragraph 25 of the CPT Report, the Ministry informs the Committee that human rights issues form an integral part of the curriculum for educational establishments that are involved in training the staff of the organs under the authority of the Ministry.

a) Students of professional schools doing basic police training are allocated eight teaching hours to get familiarised with international conventions. In addition, 56 teaching hours are devoted to deal with the interrelation of international instruments (agreements and recommendations) and effective Hungarian law, and to study the conditions for effecting human rights. The teaching material coming under this heading is a requirement at the qualifying examination for policemen.

b) Human rights form a stand-alone subject of instruction at the daytime courses of the Police Officer Training College where 30 teaching hours are allocated to this field. At correspondent courses, taking into account that students have preliminary knowledge due to their previous police training, eight hours are devoted for the same topic. The prime objective of instruction is to get acquainted with the proper interfacing of human rights and police activity. Students have to prove their familiarity with the subject at a concluding examination.

c) In addition to what has been expressly requested by the Committee, the Ministry informs the Committee that human rights issues are also part of the curriculum at training schools for border guards. At military colleges normally 12 hours (at the technical college 30 hours), at the Police Officer Training College (which trains border guards as well) 30 teaching hours are assigned to human rights. The special border security school which trains non-commissioned border officers devotes 11 teaching hours to deal with relevant topics. The base staff of border guards have 74 classes to get acquainted with human rights related agreements and regulations.

2. With reference to the data requested in paragraph 26 of the CPT Report, the Ministry informs the Committee that

ill-treatment by the police will normally involve either ill-treatment during official procedure or forcible interrogation as well as defined in the Criminal Code.

In case of accusations of crime against policemen it is the prosecutors independent of the police force and the courts which have the right to proceed. Effective Hungarian law rules out the possibility for a policeman's superior to bring a disciplinary sanction within his competence in case of a criminal offence.

In 1993 there were 1,167, in 1994 there were 1,029 reports relative to the two quoted crimes. For lack of substantiated allegations the prosecution refused to initiate criminal proceedings in 355 cases in 1993, and in 360 cases in 1994.

In 1993 142, in 1994 58 indictments were issued. Courts brought decisions in 21 cases in 1993: 2 persons received suspended sentences of imprisonment, 8 persons were fined, 2 persons were reprimanded, 4 persons were put on probation, 6 persons were acquitted on the charge.

The breakdown of the 28 cases tried in 1994 is as follows: 2 persons received suspended sentences of imprisonment, 14 persons were fined, 3 persons were put



on probation, 1 person was reprimanded, 8 persons were acquitted on the charge.

The Ministry of the Interior is in agreement with the Committee in stating that no ill-treatment is admissible against detained persons. The Ministry, however, finds it necessary to inform the Committee that in 1993 the police force concluded investigation procedures against 122,621 offenders in 437,892 criminal cases, and in 1994 against 119,494 offenders in 425,014 criminal cases. During these two years the criminal offence of "violence against persons in official capacity" was committed against 1,130 policemen.

3. As to the question of the Committee regarding the application of the right to a lawyer of an accused person who is taken into custody, as formulated in paragraph 45 of the CPT Report, the Ministry informs the Committee that the Act on Criminal Procedure adequately regulates the right of defence.

The law provides that the charged person (in the investigation stage he is called the accused) is entitled to counsel. A defence lawyer may represent the interests of the accused **in any phase** of the criminal procedure. **The person suspected of a criminal offence may choose counsel from the very beginning of the**

**procedure.** In accordance with the Act on Criminal Procedure a person taken into custody is to be considered an accused person, consequently he is entitled to defence as described above, or, in cases when the law provides mandatory defense, and he has no entrusted lawyer, the authorities are to appoint one. The communication of the charge (reasonable suspicion) of a criminal offence is a precondition to start any criminal procedure against a certain individual, therefore it has to be taken down on record. The fact that the accused has been advised that he may chose counsel or may ask for the appointment of counsel is also to be entered into the record.

## II.

### **The standpoint of the Ministry of the Interior with regard to some of the recommendations of the Committee**

1. With reference to the recommendations set out in paragraphs 23 and 24 of the CPT Report, and in addition to the Comments made previously by the Government, the Ministry wishes to point out that the forms, extent and ways of applying force while effecting a police action is regulated by law. The Act on the Police has special bearing in this respect. Unlawful use of force and ill-

treatment of detained persons is a crime according to Hungarian law and is to be prosecuted.

2. To ensure accommodation compatible with the recommendations contained in paragraphs 30 and 32 through 34 with regard to conditions of detention, by 31 March the Ministry of the Interior will have drawn up a schedule for updating places of detention at police stations in compliance with the relevant resolution of the Government.

The Ministry of the Interior, knowing the present condition of detention and calculating with estimated costs of renovation, anticipates that police holding facilities can be adequately updated in five years, provided the annually required 400 million Forints will be allocated for development.

Development is not restricted to renovation of holding facilities and building new premises. It also means adequately staffed and trained guarding teams, backup teams of civil servants, vehicles suitable for the transfer of detainees (as recommended by the Council of Europe) and appropriate security equipment.

3. The views of the Ministry of the Interior as regards the recommendation set forth in paragraph 39 of the CPT Report are identical with the Government's observations sent to the Committee. The Ministry repeatedly points

out that holding remand prisoners (persons under preliminary arrest) in police detention establishments is concordant with effective Hungarian law. These regulations do not rule out the possibility of detention in penal establishments in specified cases.

As to the recommendation concerning the outdoor exercise of detainees, the Minister of the Interior's decree on police holding facilities provides that detainees have the right to at least one hour outdoor stay and it is the obligation of the detaining authority to ensure its application.

4. Effective Hungarian law already provides for the implementation of the recommendations contained in paragraph 43 of the CPT Report. The Act on the Police grants all persons in police custody the right to notify a relative or third party of their detention. If the detained person is not in a condition to exercise this right, the police shall be under the obligation to effect the notification.

The Act on Criminal Procedure puts the obligation of notifying a relative or other persons of preliminary arrest on the authority (in this case the police) and states that the authority concerned shall fulfil its obligation **without delay**.

In the Ministry's view, taking into account the general supervisory role of the prosecution as well, the legal regulations referred to provide adequate safeguards to sustain the rights mentioned in the CPT Report.

In addition to the legal regulations mentioned, the Minister of the Interior's decree on police holding facilities aims at assuring detainees' rights in custody by granting supervisory rights to the public prosecutor. The decree also provides that documentation concerning the restriction of detainees' rights should be filed separately, sorted by detainees.

5. There is no legal obstacle to the implementation of the recommendation set out in paragraph 48 of the CPT Report with regard to persons held in police custody. The Minister of the Interior's decree on police holding facilities states that health (medical) care of detainees (apart from defining it as one of the rights of the detained person) is the responsibility of the detaining authority. In addition to police doctors, health-care can be ensured using the state or municipal health service as well, and there is no legal impediment to having the detainee examined by a doctor of his choice in justifiable cases. The law provides that if the required medical treatment cannot be granted at the place of detention, it should be carried out at an appropriate medical establishment and the

additional costs cannot be charged to the detainee. A legal regulation rendering it possible to obtain the medical history of the detainee ensures the maintenance of links with the previous treating doctor.

6. The Minister of the Interior's decree on police holding facilities ensures the implementation of the recommendation in paragraph 48 of the CPT Report. The decree provides that all details about the medical condition of the detained person should be recorded in writing. Furthermore, medical documents created at the time of reception and during detention should be filed separately, sorted by detainees.

In accordance with the acts on data protection, on keeping record of data of public interest and on criminal procedure, the detainee and (on his authorisation) his lawyer may get acquainted with the data (documents) relative to his health status.

Unless the doctor decides otherwise relevant health regulations provide that only the doctor and his/her assistant may be present at the medical examination of the detainee.

7. Appropriate information of detainees is ensured by the Minister of the Interior's decree on police holding facilities, in line with the recommendation formulated in paragraph 49 of the CPT Report. The decree provides

that on reception the detained person shall be informed in writing (in justified cases orally), in his mother tongue or in a language he understands, (among other things) of his rights and obligations and ways of exercising them. The decree also states that the detainee should sign a statement attesting that he has been properly informed and he has understood it. His statement is to be filed among his documentation.

8. As to the content and form of police interrogations, they are regulated by the Act on Criminal Procedure, by a joint decree of the Minister of Justice and the Minister of the Interior issued on the authorisation of the Act on Criminal Procedure, and by the Minister of the Interior's decree on criminal investigation conducted by the police. The regulation and the rules of implementation are in concord with the recommendations set out in paragraph 51 of the CPT Report.

The Ministry informs the Committee that a body of rules concerning criminal investigation by the police (police interrogation inclusive) is under preparation and is to be issued in the form of a decree of the Minister of the Interior.

With reference to the comment of the Committee on considering the possibility of introducing a system for

the electronic recording of police interrogations, the Ministry informs the Committee that effective regulation allows for the application of the suggested method of recording. The Act on Criminal Procedure provides that the authorities may order the recording of procedural acts (thus of the interrogation) using a sound recording device or other equipment. It is also possible to issue such an order at the request of the detainee or his counsel, provided a deposit is paid to cover expenses. The joint decree of the Minister of Justice and the Minister of the Interior on authorisation of the Act on Criminal Procedure states that at the request of the detainee or his counsel a copy can be made of the recordings of procedural acts where the detainee or his counsel were allowed to be present, and the content of which they are entitled to know, as defined in the Act on Criminal Procedure. Tape recordings should be replayed if the detainee so wishes. In case the testimony of the accused is narrated by a representative of the investigating authority, the sound recording should also include a statement of the interrogated person that his testimony has been correctly recorded. On reviewing the documentation of the investigation the sound recording should be replayed at the request of the accused and his counsel.



9. By defining the data and documents to be recorded at the place of detention sorted by detainees, the Minister of the Interior's decree on police holding facilities provides a regulation which is in line with the recommendation set out in paragraph 53 of the CPT Report regarding individualised custody record for each person detained.
  
10. In the observations to the CPT Report the Government already notified the Committee of closing down the Kerepestarcsa Community Hostel. The Ministry of the Interior informs the Committee that the National Commander of the Border Guards, the National Police Commissioner and the Head of the Refugee and Migration Office issued a joint decision to use the community hostels of border guard directorates to accommodate illegal aliens. In addition to this, it is also possible (at the decision of alien control authorities) to place families or other closely related groups at facilities run by the Refugee Office, the Hungarian Red Cross or other charity organisations, reimbursing their expenses.

The Ministry of the Interior notifies the Committee that it will give an account of the renovation of the 8th District Police Station and the removal of the barred cubicles at the reception area of the Police Central holding facility when the (already prepared) work has been concluded, as to

the scheduling of the implementation of the development concept for police holding facilities the Ministry wishes to give information in the follow-up report requested by the Committee.